

# TESTIMONY OF BRENOA KRIEGER

MARCH 11, 2010

Good evening.

I thank the Planning commission committee for this opportunity to comment on the Draft Plan amendment regarding Tysons.

I have been a member of the Tysons Task Force for the past 5 years, as well as the Draft Review Committee and recognize the work everyone has put in to bringing us this far. I fully support the vision and recommendations of the Task Force as well as the comments contained in the recent position paper of the Fairfax Chamber.

Since my time is limited, I submit this longer statement for your consideration and focus on one or two key issues from my perspective as representing Dweck Properties, a landowner, landlord, and developer at both the Tysons East and Tysons Central Station areas.

1. To create the kind of city in Tysons envisioned in the Plan that will be a great place to live and work, and to help protect the rest of Fairfax County from more sprawl will require some leaps of faith based on many assumptions.
2. For landowners, the decision to redevelop is an economic one, and there must be a real balance between the numerous community-wide benefits sought from developers by Fairfax County and the corresponding density necessary to help provide real risk adjusted financial returns necessary to incentivize new investment.
3. Traffic considerations cannot be the determining factor in order to cap the densities we need **now** to create the urban form we want and make development economic feasible, especially in the short run when Tysons **will** go through a transition period.
4. The George Mason Market study tells us that **regardless of density levels allowed**, the anticipated market forces will be the limiting factor in total development over the next 40 years. We should not be afraid to allow the higher densities for fear that we will have runaway development. We might, however, be able to incentivize redevelopment and afford most if not all of the infrastructure and civic benefits envisioned by the Task Force.

By example I use our property of 17 acres located between  $\frac{1}{4}$  and  $\frac{1}{2}$  mile from the Tysons East station within comfortable walking distance. Currently we have 4 income producing office buildings and we commissioned a Master Plan in keeping with the residential land use, grid of streets, parks etc. called for in the Task Force recommendations. Given the current language in the Draft Plan, including density levels, road sections and development conditions, we **cannot** afford to redevelop according to this plan in the foreseeable future:

The entire site, is planned at only a 2.0 FAR for residential mixed-use, with bonus density available only with a 20% contribution to affordable/workforce housing. This is inadequate.

-If Old Meadow Road is widened to 6 lanes overall, as shown, with a dedicated lane for a Circulator, we could end up with a totally inappropriate roadway as wide as K St. in a residential neighborhood. This, along with the proposed new roadway and additional parkland buffer adjacent to Scotts Run would squeeze all of our density onto a much reduced plot making it

impossible to incorporate the other streets and parks. If we could even do it within the height restrictions, the whole property would have to be taken up with the buildings themselves.

We **should** have a proper 4 lane – total – road with a multi-purpose curb lane, similar to Mass Ave; and along Scott’s Run we should prefer a pathway for pedestrians, bikes and emergency vehicles only, to better integrate the park into the neighborhood.

But most disturbing is that in order to achieve the relatively low 2.0 FAR, we would have to meet the following development conditions, which together would cost us OUT of the economic case to redevelop:

- LEED Silver – problematic today for residential development

- ROW dedication along Old Meadow in order to create a 110’ roadway plus wide sidewalks and extensive landscaping/streetscape adjacent to it. ROW dedication for a roadway along Scott’s Run, plus the “establishment of new parkland

- Contribution toward street construction for the above mentioned new or widened roadways.

- Provision of additional “connecting local streets as well as other pedestrian and bike circulation improvements”

- “Contributions to stream and riparian buffer restoration efforts along Scotts Run”

- 20% affordable and workforce housing

- Recreational facilities and 1.5 acres of parkland per 1,000 residents and 1 acre per 10,000 employees

- Contribution to athletic fields in Tysons area

- Highly aggressive, state of the art stormwater requirements

- TDM program including contributions to a TDM fund

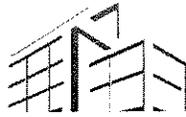
- Contributions towards schools, transportation improvements and “commitments ... for needed improvements and for the mitigation of impacts identified in (required) the public facility, transportation and infrastructure analyses, as well as improvements and mitigation measures identified in the Areawide Recommendations.

- ROW for, and contribution to the construction of the Circulator.

- Agreement to development phasing

- If we are the first zoning application – develop a plan for public facilities for the entire Tysons East District.

We all want the same vision for Tysons. As developers, landowners, employers and landlords, we want the parks and streets and shops and mobility that everyone wants. But we also encourage a bold step forward and a strong and realistic partnership between us and all the stakeholders.



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**COMMENTS ON TYSONS DRAFT PLAN AMENDMENT**

Over the last 50 years, Tysons has developed into the 12<sup>th</sup> largest Central Business districts in America on the basis of high growth and a reservoir of undeveloped land. Over the next 50 years, growth in Fairfax must be focused on the available redevelopment areas which are, or will be, served by an integrated rail and bus transit system if we are to remain competitive and enhance the quality of life for the residents in the County.

While Tysons now functions as a typical suburban office center, it has the opportunity to transform into the vital, vibrant urban center we have all been working towards – **a Place which is not dependent on the automobile.**

This transformation cannot and will not, happen overnight. It can, however, happen over the next few decades, provided that the right choices are made today.

It can *only* happen if the adopted Plan Amendment is **Bold and Visionary**. If the Plan is overly cautious, it will discourage redevelopment by not providing sufficient density while still requiring substantial costs and contributions.

Unfortunately, the Plan Amendment language leans to the cautionary and not the bold. While the Tysons Land Use Task Force and Fairfax County Planning Staff have come to agreement on many areas, there are still several where consensus has **not** been reached and final decisions have yet to be made. Some of these decisions will have a profound impact on the ability of the Plan Amendment to achieve the shared vision of Tysons as well as the pace and overall quality of the redevelopment and perhaps more importantly, the economic vitality of Tysons itself. Areas of concern include, but are not limited to:

1. Economic Feasibility
2. Density – especially in the TOD areas beyond ¼ mile and outside the TOD areas
3. Development conditions and costs at proposed density levels
4. Transportation analysis
5. Consolidation
6. Phasing
7. Flexibility
8. Housing
9. Green Buildings (residential)

**Economics:**

Creating viable economics for redevelopment in these areas is the key to successful implementation of the new Tysons Corner Urban Center Plan. This can be only achieved by creating a real balance between the numerous community-wide benefits sought from developers by Fairfax County and the corresponding density necessary to help provide real risk adjusted financial returns necessary to incentivize new investment.

**Absent this balance, Tysons may well look much the same ten to fifteen years from now as it does today**

In-place development, while not built to the highest and best use, largely consists of efficient, well-leased, income producing assets that have an underlying value derived from their current income streams. Investment returns from new development must be sufficient to, at a minimum, compensate existing landowners for the underlying land value of their asset or redevelopment will not occur. If structured properly the new Plan Amendment for Tysons Corner will allow a new network of streets, improvements to the existing roads, and significant enhancements to public transit to be implemented through a combination of public and private investment in order to create transportation capacity to support increased development density.

In order to create the incremental tax revenue to drive infrastructure improvements, the Plan Amendment must be designed to provide proper incentives for redevelopment. **The decision to redevelop is an economic one.** First the developer derives the value of the existing property. Second, they calculate the property's value if redeveloped. The scenario with the highest value is typically the preferred approach. The cost to provide community benefits must also be factored and these costs have a significant impact on a developer's willingness to redevelop. A balance must be struck between the cost of the community benefits and the resulting residual land value for the land owners. Only if this can be achieved will redevelopment be likely to occur.

**In the proposed Plan Amendment, the cost of community benefits and infrastructure improvements is too high relative to the potential return on the allowable development.** The following is a list of just a few potential changes to the community-wide benefits requirements which would help landowners to achieve residual land values which incentivizes new development.

- A) The Model must reflect that development does not occur in a straight line and may not at all times be in balance with infrastructure construction.
- B) Provide an offset mechanism that credits the cost to construct and dedicate on-site public transportation improvements provided by the development against other fees and contributions sought by the County.
- C) Allow for a more flexible split between residential and commercial development. This flexibility will allow the development community to respond to market conditions and provide the best incentive for redevelopment at any given moment in the future.

- D) Streamline the approval process to minimize consultant’s fees and land carry cost. The entire process from the submission of the rezoning application to receipt of the building permit should be no longer than one year.
- E) Allow private parking to occur below public ROW where possible..
- F) Provide density bonuses for excellence in environmental sustainability.”<sup>1</sup>
- G) Reduce quantity of proposed dedications for parks and open spaces
- H) Modify Affordable and Workforce Housing requirements as proposed in the Chamber document
- I) Large, area-wide community benefits, like Scott’s Run Park, the Circulator and others, should not be the responsibility solely of adjacent landowners, but rather be addressed as area wide projects.
- J) Delete the requirement that the first zoning application in each District must plan all public facilities for the entire District. One landowner cannot and should not plan for adjacent landowner’s property. This must be a government/district wide responsibility.
- K) Please also see the numerous recommendations contained throughout this memorandum that address development conditions and their associated costs.

### Density and Incentives:

The Plan Amendment densities have been set unnecessarily low because of the strict reliance on the Transportation Study and Modeling that was conducted by Fairfax County for Tyson – without the appropriate consideration of the results of the George Mason market study. In addition, while the county made reasoned assumptions for the transportation study and modeling, the results would be dramatically different if even just a few of the assumptions were changed. The approach in the Draft Plan would restrict individual projects and assume that all of Tysons will be redeveloped by 2050. Rather, we should propose the type of redevelopment that would be desirable, particularly within a half-mile of the Metrorail stations, recognizing that much of it will not be developed to its planned potential by 2050.

According to the George Mason Univ. Market Study, the aggregate level of development that is projected to occur in Tysons by 2050 is about 113 million square feet – **regardless of what allowed densities are in any particular location**. Reducing the densities around the Metrorail stations in order to artificially restrain overall Tysons-wide densities will result in the lost potential of concentrated urban growth.

The last part of the equation is to understand that to achieve the dense, vital neighborhoods with the **critical mass** to support public transit as well as retail development, which will be the “draw” for people who want to live and work in this environment, **requires the higher density levels**

1. The Economic impact of the development conditions imposed at the density levels currently being proposed in the Plan Amendment will preclude desired development
  - a. The Plan Amendment densities are too low, especially between ¼ and ½ mile in the TOD areas and in the Non-TOD areas.
  - b. Incentives for Residential Development are inadequate

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<sup>1</sup> “White Flint Sector Plan – Financial Analysis, Economic Benefits and Infrastructure Financing”, November 19, 2008.

**-Adjust the balance between density levels and Development Conditions:** If the Plan Amendment densities stay as proposed and are not adjusted higher between ¼ - ½ mile in the TOD areas and in the non-TOD areas, and/or if the development conditions that are imposed are too costly and too restrictive, and if there is no flexibility to allow implementation of the new plan to adapt to market conditions, then a new, urban Tysons may not be achieved. If we do not provide adequate incentives for substantial redevelopment, it is certain that the vision will not be achieved, the many community benefits will not be realized and urban sprawl and congestion may continue or worsen. A 2.0 FAR for redevelopment to residential mixed-use in the Old Meadow district is not tenable given the list of required development conditions.

Numerous studies have documented the reach of transit-oriented development extending well beyond ½ mile from rail transit stations. (See Year 2000 census data for stations within the Rosslyn-Ballston Corridor as well as the more suburban stations like West Falls Church) GB Arrington, Fairfax County's hired consultant with PB Placemaking, stated that "in general, people choose transit when the trip origin and/or destination are within less than 5 minutes or 10 minutes of walk distance from a station, that the closer the destination to a transit station, the higher the willingness to walk and use transit, and, people are willing to walk more at the residential end of their commute than at the work end.

-Some suggested additional incentives for residential development:

**Reduce the affordable and workforce housing requirements.** 20% is not economically feasible. (see Chamber proposal)

**Modify the park requirements**

**Allow substantial residential development** to occur without phasing to transportation improvements

**Reinstate the density bonus for residential development:** The vision for Tysons as outlined in the Plan Amendment includes an emphasis on creating a job/housing balance, which includes the need for significantly more residential units than Tysons has today. Most of this is planned to be built beyond ¼ mile. The **density bonus for residential development** between ¼ and ½ mile was deleted in this draft of the Plan and should be included.

**Delete the LEED Silver requirement** for residential development as it is problematic for this type of construction at this time..

**2. In the Tysons East District TOD Area additional density also needs to be applied between the 1/8 and 1/2 mile distance to account for the significant loss of the TOD area to public land.**

Besides being anchored by the new Tysons East station, the Tysons East District has the best access in all of Tysons to the existing regional highway network. It is adjacent to the Capital Beltway and is in close proximity to two future HOT lane connections at the Westpark Connector Bridge and Scotts Crossing. In addition, it is easily accessible from the Dulles Toll Road.

The Tysons East District consists of 165 acres and it is being allocated approximately 16.5 million square feet of development, almost 7 million square of development less than the adjacent Tysons Central 123 District primarily due to the fact that over 65% of the land is unbuildable due to physical constraints like road ROW, parkland and RPA. However, the same

monetary investment is being made in the transit infrastructure at the Tysons East station as the other three stations in Tysons Corner.

The County needs to maximize the benefit derived from the Tysons East rail station and allow for higher density to take full advantage of this transit infrastructure resource and the principles of transit-oriented development land use planning. The Tysons East District must have approximately the same aggregate development potential within the 0 to 1/2 mile circle as the other 3 stations (rather than up to 7 million SF less) otherwise,

- 1) the transit infrastructure investment in support of TOD will have been wasted, and,
- 2) with no density attributed to Scotts Run Park, the Tysons East District will be disproportionately and unfairly burdened with the cost of improving Scotts Run Park (since this park has already been dedicated without offsetting density credit).

The solution is to increase the density between 0 to 1/2 mile from the Tysons East rail station by attributing density to the Scotts Run Park Areas within 1/2 mile of the TOD areas and adding density to the northern parts of Tiers 1-3 proportionately. The resulting development pattern should still generally conform to the goal of locating the highest intensities closest to transit. In addition, proposed intensities should be consistent with the urban scale and character that is envisioned for the area.

**Consolidation:** Requiring the large consolidations or proffered development plans as stated in the Plan may unwittingly stifle development. We strongly support the insertion of the Task Force DRC Comment box on Page 178 of the Plan Amendment, also directly below. “Redevelopment of a smaller land area may be considered if the proposed development demonstrates the ability to provide adequate vehicular and pedestrian access and circulation, as well as provides necessary commitments to the grid of streets, parks and open space, and phasing as indicated under the Areawide recommendations and guidelines.”

### **Transportation Issues**

#### **-Road Widths and Street Hierarchy:**

A comprehensive street grid is crucial to the creation of a walkable, vibrant Tysons. Unfortunately, the Transportation plan is still auto-centric and although it mentions Context Sensitive Solutions, it does not follow its guidance.

- Landowners should be allowed to engineer and submit for consideration alternatives to the grid of streets or specified street sections for their subarea/subdistrict. So long as they can show the type of connectivity planned by Staff and/or demonstrates that the proposed thoroughfare sections for both private and public streets will better serve the character of the surrounding neighborhood, their plans should be accepted.
- In the draft Plan, it is noted that the “Avenue” and “Collector” classifications are assigned identical street sections, and thus it appears there is no difference between the two classifications. The Draft Plan includes a “Local” street section with a 39 foot section and then jumps to a “Collector” with a 71 to 108 foot section. It would be appropriate to provide an alternative street section for “Collectors”. It is suggested that a 49 foot section street including four lanes, two 11 foot lanes and two 13 foot lanes, be included. This would allow for two through lanes with on street parking and bike lanes that could be converted to four through lanes in peak periods.

- The language for the Circulator says that service should “allow frequent, quick and inexpensive movement as well as easy connections to regional transit systems”. It then goes on to state emphatically that this can only be done ultimately “on-street on its own right-of way”. Do we sacrifice “Place” for roadway? These road widths translate into Connecticut Ave downtown and K St. when an “M” St. would be adequate. The Circulator bus in downtown Washington is very effective. Lanes can be multipurpose - exclusively for the Circulator in rush hour and full travel lanes at other times. Many of the current and future residential neighborhoods, and even some of the “downtown” ones, call for smaller streets by virtue of their “context”.

THIS IS ESPECIALLY TRUE OF **OLD MEADOW ROAD** WHICH SHOULD NOT BE WIDENED BEYOND 4 LANES TOTAL (approx 50’). If Old Meadow Road became a 90’-110’ thoroughfare and we also added the other roads shown on the plan, not only would the character of the neighborhood change for the worse, but so much land would be contributed for ROW that again, the economic – and physical - feasibility of the type of development we want, would be compromised given that the height limitations and other restrictions would impede the ability to use the density from these dedications.

### **Phasing\***

There is agreement on the need to balance development transportation infrastructure and community benefits in Tysons. And, although the question of how to effectively and efficiently achieve the desired balance is difficult to answer, it is not impossible. Staff has put forward two approaches:

1. Transportation Triggers Approach. Property owners should commit to achieving the transportation infrastructure and programs specified in Table 8 (“Transportation Infrastructure and Programs as they Relate to the Level of Development in Tysons Corner,” page 77)

2. Community-Based Phasing Approach. Phasing development so that the required transportation infrastructure and programs are fully funded with a mechanism to ensure construction within the time frame specified in Table 8. Full funding can be achieved by forming/participating in a Community Development Authority (“CDA”). Each CDA will be responsible for one or more applicable Tysons-wide projects and all applicable District projects, as determined at the time of zoning. Funding responsibility should be achieved with 100% of funding provided by the CDA or provided by a combination of CDA and public funds (page 76).

The business and development communities take issue with the first approach (the Transportation Triggers Approach) because they do not agree that development should be linked to a predetermined list of transportation improvements, the provision of which is beyond their control. To the contrary, a phasing plan for Tysons should be dynamic and performance-based; the plan should be able to respond to changing circumstances and conditions and development

should not be tied to a list of specific improvements if it becomes clear that those improvements are not appropriate or necessary and/or if mobility is already being achieved.

Staff's second approach (the Community-Based Phasing Approach) is also problematic; funding responsibility should not and cannot rest fully in the hands of the development community. While the development community agrees that it should contribute its fair share towards achieving these improvements, the developers' relative contributions should be calculated based on a reasonable formula and should be complemented by public funding.

It is anticipated that tens of billions of private sector dollars will be invested in Tysons (new buildings, services, infrastructure, capital improvements, etc.). This new development will result in extraordinary tax benefits to the Commonwealth of Virginia and Fairfax County. According to the Fiscal Impact Analysis prepared for the County by MuniCap, Inc., Tysons will generate approximately \$19.3 billion in revenues between now and 2050. Even after accounting for expected County expenditures and capital costs, net revenues are estimated at \$14.8 billion. It is the responsibility of the public sector and the Board of Supervisors to reinvest some meaningful portion of these tax benefits into the County's "downtown."

It is important to remember that the development and business communities already contribute significantly to the redevelopment of Tysons by funding the local share of the single most important transportation improvement – the extension of the Metrorail system. The County has not contributed to this major infrastructure improvement. The private sector is committed to providing additional improvements in Tysons. It is now time for the County to enter into a true partnership with the private sector to provide additional needed infrastructure.

The development and business communities recognize the County's current budgetary concerns and limitations. Obviously, our communities are currently suffering severe constraints as well. However, together we are developing a plan for the next forty years and we both must take a long-term view. As noted above, the anticipated redevelopment of Tysons is expected to generate more than \$14 billion in net tax revenues over the next forty years. The Board of Supervisors should choose to reinvest a portion of the tax revenue generated by Tysons *in* Tysons by utilizing Tax Increment Financing ("TIF"). This will go a long way to financing the many Tysons-wide transportation improvements Staff has identified in the Draft Plan. The development and business communities will in turn do their part, constructing the grid of streets, developing on-site parks and offsetting the impacts of their development. But for the Tysons vision to become a reality, the County needs to be a willing participant in its transformation.

\*Fairfax Chamber of Commerce position paper

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